

APR 25 1989

URGENT LEGAL MATTER

EXPRESS MAIL

RETURN RECEIPT REQUESTED

Mr. Richard E. Max
578 Dorchester Drive
Rivervale, New Jersey 07675

Re: Synkote Paint, 144-160 Van Riper Avenue
Elmwood Park, New Jersey

Dear Mr. Max:

The United States Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq., as amended ("CERCLA"). EPA also regulates the handling of hazardous waste under the Solid Waste Disposal Act, 42 U.S.C. §6901 et seq. as amended by the Resource Conservation and Recovery Act ("RCRA") and other laws.

This letter constitutes official notification to you of potential liability, as defined by Section 107(a) of CERCLA, that you may incur or you may have incurred with respect to the above-referenced site. This letter also notifies you of potential response activities at the site, and encourages you to voluntarily perform those response activities that EPA determines are necessary at the site.

EPA has documented the release or threatened release of hazardous substances, pollutants or contaminants at the Synkote Paint facility. EPA is considering spending public funds on actions to investigate and control such releases or threatened releases at the site. Unless EPA reaches an agreement under which a potentially responsible party ("PRP") or parties will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA.

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §9606(a) and §9607(a), Section 7003 of RCRA, 42 U.S.C. §6973, and other laws, PRPs may be obligated to implement response actions deemed

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necessary by EPA to protect public health, welfare or the environment and may be liable for all costs incurred by the government in responding to any release or threatened release at the site. Such actions and costs may include, but are not limited to, expenditures for investigations, planning, response, oversight and enforcement activities. In addition, PRPs may be liable for damages to natural resources. EPA may issue an administrative order pursuant to Section 106(a) of CERCLA to require PRPs to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$25,000 per day, under Section 106(b) of CERCLA, or imposition of treble damages under Section 107(c)(3).

EPA has evaluated information in connection with the investigation of the site. Based on this information, EPA believes that you may be a PRP with respect to this site. PRPs under CERCLA include current and former owners or operators of the site, as well as persons who arranged for disposal or treatment of hazardous substances sent to the site, or persons who accepted hazardous substances for transport to the site. By this letter, EPA notifies you of your potential liability with regard to this matter and encourages you to voluntarily perform or finance those response activities that EPA determines are necessary at the site.

For your information, the response action contemplated by EPA will include, but will not be limited to, the sampling and analysis and the removal of all tanked liquids, drummed wastes and other wastes in containers present at the Synkote Paint facility, and it will also include the proper disposal of those wastes which will depend upon analysis of their constituents. Proper disposal of the wastes present at the Synkote Paint facility may include their removal to a secure landfill, incineration or other appropriate disposal methods. The planning lead time to conduct the removal action will be no longer than 60 days from the date of this letter as EPA has determined that the Synkote Paint facility may pose an immediate threat to public health, welfare or the environment.

In addition to the removal actions outlined in this letter, EPA will also determine at a subsequent time whether additional corrective measures are required to mitigate any releases from the site to protect the public health, welfare or the environment.

Under CERCLA Section 122(e), EPA has the discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between EPA and PRPs to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the site while

formal negotiations between EPA and the PRP or PRPs are conducted.

In this case, EPA has decided not to invoke the Section 122(e) special notice procedures. In order to expedite cleanup activities, it is EPA's policy not to use the Special Notice procedures for removals unless there is a 6-month planning lead time after the decision to respond and prior to the initiation of the action. Since the planning lead time prior to the initiation of this response action is less than 6 months, special notice procedures will not be used. Nonetheless, EPA is willing to discuss settlement opportunities without invoking the moratorium, but will initiate the response action as planned if such discussions do not lead to settlement expeditiously.

EPA would like to encourage good faith negotiations between the PRPs and EPA and among the PRPs. To assist PRPs in preparing a proposal and in negotiating with EPA concerning this matter, EPA is providing a list of names and addresses of PRPs to whom this notification is being sent. The list is attached to this letter. This list represents EPA's preliminary findings on the identities of PRPs. Inclusion on, or exclusion from, the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at the site.

EPA requests your cooperation in this matter and suggests that you meet with the other named parties to address performing the removal action at the Synkote Paint facility. If you are interested in participating in negotiations with EPA regarding the proposed removal action at the site, you should notify EPA of your intention to enter into formal negotiations. Notification should be in writing and should be delivered to EPA no later than fourteen (14) days after the date you receive this letter. Your letter should be sent to:

U.S. Environmental Protection Agency
Region II
New Jersey Compliance Branch
26 Federal Plaza, Room 747
New York, New York 10278
Attention: Howard Orlean

If EPA does not receive a written response from you in the time specified above, EPA will assume that you do not wish to negotiate a resolution of your liabilities in connection with the response, and that you have declined any involvement in performing the response activities. You may be held liable under Section 107 of CERCLA for the cost of the response activities EPA performs at the site and for any damages to natural resources.

The factual and legal discussions in this letter are intended solely for notification and information purposes. They are not ended to be and cannot be relied upon as final EPA position on any matter set forth herein.

If you wish to discuss this matter in further detail, please contact Howard Orlean of my staff at (212) 264-6195 or Rudolph S. Perez of the Office of Regional Counsel at (212) 264-3148. We appreciate your giving this matter your immediate attention.

Sincerely yours,

Stephen D. Luftig, Director
Emergency and Remedial Response Division

cc: Gerald Burke, Deputy Director
Office of Regulatory Services, NJDEP

John J. Trela, Director
Division of Hazardous Waste Management, NJDEP

David W. Oster
Bureau of Field Operations, NJDEP

List of names and addresses of PRPs to whom Notice Letters are being mailed.

Propety Concepts, Inc.
c/o Mr. Kenneth Van Rye
519 River Drive
Elmwood Park, NJ 07407

Synkote Paint
c/o Mr. Richard E. Max
578 Dorchester Drive
Rivervale, NJ 07675

Mr. Richard E. Max
578 Dorchester Drive
Rivervale, NJ 07675

National Community Bank of New Jersey
Legal Department
114 West Essex Street
Roselle Park, NJ 07662

Attention: Ms. Helen Caserta
Senior Vice President